

# **Maryland National Guard**

## **Army and Air**

### **Active Guard Reserve**

#### **Military Leave Duty Status Determination Desk Reference**



PRODUCED

BY

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## References

### Statutory Authorities

Title 10, U.S.C., section 701, entitlement and accumulation.  
Title 10, U.S.C., section 704, use of leave on a calendar-day basis.  
Title 37, U.S.C., section 501, payment for unused accrued leave NTE 60

### MD Army National Guard

AR 600-8-10 Military Leave and Passes  
HRO Policy / Guidance Letter #15 (ARNG)

### MD Air National Guard

AFI 36-3003 Military Leave Program  
HQ, MDANG Supplement 1 ANGI 36-101

## Overview

The intent of this reference is to assist commanders, full-time supervisors, and the AGR work force of rules and practices that must be employed and/or adhered to when making a leave or duty status determination. The information reflects common scenarios that often arise and require a duty status determination. This information is not considered all-inclusive. If further clarification beyond this reference is needed you can review the appropriate service component regulation/instruction (DA for ARNG and AFI for ANG) as referenced above, or contact the Human Resources Office.

Under no condition is there to be any deviation from the referenced statutory or regulatory guidelines. An AGR's duty status is not to be taken lightly, specifically, by allowing events such as accumulation of hours in excess of normal work week to be utilized at a later date, or absences from the work center to attend to parental family needs in a non-leave status, or calling in sick versus seeking care at a Medical Treatment Facility so that a sick-in-quarters determination can be made, or applying the 50% workday rule on regular / recurring basis and therefore leave isn't chargeable. A chargeable leave day is exactly that, a single day versus spreading the time in increments such as ¼ day, ½ days, etc. If an AGR is not at their duty location during designated hours of work, that is 10.5 hours a day, and a minimum of 40 hours per week excluding UTA's, than a leave / duty status determination is required"

## Annual "Ordinary" Leave

- Unit commanders are required to establish a program that encourages the use of leave for the maximum benefit of the member.
- Both management and members share responsibility in managing leave balances throughout the fiscal year.
- Scheduling leave prevents loss of leave at fiscal year-end balancing, retirement, or separation from active duty.
- Having an annual leave program allows members an opportunity to take leave within the constraints of operational requirements.

***NOTE: The entitlement to leave is a right; however, unit commanders can deny leave due to military necessity or when in the best interests of the ARNG or ANG.***

## Use of Annual Leave

The use of leave is essential to the morale and motivation of members and for maintaining maximum effectiveness. Lengthy respites from the work environment tend to have a beneficial effect on an individual's psychological and physical status. Weekend absences (regular pass) or short periods of leave do not normally afford a similar degree of relief. **Members should be encouraged and/or have the opportunity to take at least one leave period of 14 consecutive days or more every fiscal year. Additionally, they should be encouraged to use the 30 days accrued each fiscal year.**

Leave examples would include but not be limited to the following:

- For **vacation** or short periods of rest from duty.
- To attend to **parental family needs** such as illnesses.
- **After periods of arduous duty**
- **After protracted periods of deployment** from home station.
- During traditional national **holiday periods**.
- To attend to **family emergencies**
- To attend to **personal situations** caused by natural disasters such as floods and hurricanes.
- For attendance at **spiritual events** or for other religious observances.
- During the **pre-processing period** incident to release from active duty.
- As **terminal leave** with retirement or separation from active duty.

#### **Leave Begins and Ends in the Local Area.**

The local area is the place where the member lives and from which he or she commutes to the duty station. Charge leave for duty days and non-duty days (for example, Friday through Monday) when members take leave on the day before and the day after non-duty days. This applies to leave taken in the local area.

**EXCEPTION:** When a member's leave ends on a day before a non-duty day, the commander may authorize leave on the next duty day for an emergency situation and not charge leave for the non-duty days. If the member knew of the emergency situation before his or her departure on the original leave, charge the member leave for the weekend or other non-duty days.

#### **Leave or Duty Status**

Determine leave based on actual date that members start leave and actual date of return from leave according to Table below. Charge leave for non-duty days, including holidays, if the non-duty days fall between leave days. This applies to members who take leave in, or away from, the local area.

**EXCEPTION:** Commanders may authorize leave on Tuesday without charging leave for Saturday, Sunday and Monday if an emergency situation requires a member to take unplanned leave and the member is in the local area. This applies when members take leave on Friday.

R U L E	A	B	C	D	E
		and performed the majority of scheduled duty (over 50 percent)			
	If member is	Yes	No	or on a non- duty day	then the member is on
1	starting leave or signing up for space-available travel	X			duty.
2			X		leave.
3				X	duty.
4	returning	X			duty.
5			X		leave.
6				X	leave.

**COMMENTS:** Leave status is not necessarily chargeable leave. For example, a member is on leave status after working at least 50% of the duty day, and the following day is the first day of chargeable leave.

### **Regular and Special Pass Information**

- **Pass Period.** A pass period is an authorized absence from duty for a relatively short time.
  - It starts from the end of normal working hours on a duty day and ends at the beginning of normal working hours the next duty day.
  - At the beginning and the end of the pass period, the member is actually in the local area. The local area is the place from which they regularly commute to work.
- **Regular Pass.**
  - A regular pass (liberty) starts after normal working hours on a given day and stops at the beginning of normal working hours on the next working day.
  - A regular pass normally begins at the end of working hours on Friday afternoon until the beginning of normal working hours on the following Tuesday when non-duty days are Saturday, Sunday and Monday.
  - A regular pass period (non-duty days) may not exceed the 4-day special pass limitation. The combination of non-duty days and a public holiday may not exceed the 4-day special pass limitation. The combination of 3 non-duty days and a public holiday during a compressed work schedule is a regular pass period.
- **Special Pass.**
  - Unit commanders may award 3 or 4-day special passes for special occasions or circumstances, such as reenlistment or for some type of special recognition or compensatory time off. They may delegate approval to a level no lower than squadron section commander, deputies, or equivalents. Special passes start after normal working hours on a given day. They stop at the beginning of normal working hours on either the 4th

day for a 3-day special pass or the 5th day for a 4-day special pass. A 3-day special pass can be Friday through Sunday, Saturday through Monday, or Tuesday through Thursday. A 4-day special pass can be Thursday through Sunday or Saturday through Tuesday or Friday through Monday. This applies to a normal Monday through Friday workweek.

### **Regular and Special Pass Guidelines**

- **Unit Commanders:**
  - Impose no mileage restrictions.
  - Unit Commanders may require members to be able to return to duty within a reasonable time in the event of an operational mission requirement such as a recall, unit alert, or unit emergency. At training bases, commanders can require members to be able to return in time to resume training or class attendance. Commanders need to base all restrictions on reasonable and legitimate military requirements.
  - Inform members that the authorized absence that exceeds the pass period is chargeable leave if they fail to return from an authorized pass period.
  - Do not grant a special pass in conjunction with leave.
  - Do not grant special passes in succession or in series.
  - Ensure commander's support staff personnel process a DA Form 31 (ARNG) or an AF Form 988 (ANG) when members fail to return from pass and need unplanned leave.
  - Inform members they cannot use regular or special pass periods to extend TDY periods.
  - Do not grant a special pass in conjunction with non-duty days exceeding the 3-day or 4-day special pass limitation.

### **ANG Pass Limitations and Form 345**

Pass Limitations. Immediate supervisors are authorized to grant a 1 (one) day Special pass. The Section OIC may approve up to a 2 (two) day Special pass. The Full-Time Functional Group Commander must approve Special passes exceeding 2 (two) days in length. The Section OIC must approve Regular passes.

HQ MDANG Form 345 (EF-V1)(Form flow) Maryland Air National Guard AGR Liberty Pass (Attachment 1) will be used.

### **Unit Approval Level**

- Unit commanders are the approval authority for annual leave requests and normally delegate approval to a level no lower than the first-line supervisor.
- Unit commanders can disapprove leave requests for military necessity or in the best interest of the ARNG or ANG.

### **Leave Extensions**

The member must ask, orally or in writing, for the extension sufficiently in advance of expiration of leave authorized to permit return to duty at the proper time if the approval authority disapproves the extension. Members who fall ill or need hospitalization while on leave must advise the leave-approving authority as soon as possible. The next of kin, attending physician, nearest MTF, or ARC may act on a member's behalf.

### **Unit Commander's Responsibilities**

- Establish annual leave programs to give members opportunity to use leave.
- Enforce ANG and ARNG command-approved leave guidelines.
- Document all leaves and establish an audit trail for money spent in conjunction with emergency leave.
- Make sure commander's support staff personnel keep prompt and accurate records of leave.
- Make sure members who refuse to take leave understand their obligation to comply with unit leave programs and that refusal to take leave may result in the loss of earned leave at a later date.
- Instruct members to schedule leave within operational requirements.
- Encourage members to take one leave of at least 14 continuous days every fiscal year and to use leave accrued each fiscal year.
- Inform members that there may be instances of leave disapproval or cancellation due to military necessity.
- Ensure members schedule leave annually at the beginning of the fiscal year and update their leave schedule periodically.
- Tell members to follow their leave schedule in order to have an effective unit leave program.
- Advise members who schedule "use or lose" leave in Aug or Sep that they risk losing leave on 1 Oct if military requirements or personal circumstances prevent them from taking leave at that particular time.
- Seek, if necessary, American Red Cross (ARC) verification when members request emergency leave.
- Combine ordinary leave with other types of leave unless specifically prohibited and treat the combination of leaves as one leave period.
- Make sure members taking ordinary vice terminal leave return 15 days before their scheduled separation or retirement to prevent pay problems.

### **Leave Approval Authority**

While commanders have final approval authority, they may delegate approval authority according to the organization's needs. They may delegate it normally to a level no lower than squadron section commander, deputies, or equivalent (for headquarters staff, no lower than assistant functional deputy directors or equivalents). **NOTE:** During short absences of the unit commander, the commander's designated representative may approve, in the commander's name.

- Annual & Advance Leave. At unit level and headquarters' staff, commanders delegate ordinary leave approval to no lower than the first-line supervisor.
- Emergency Leave. At unit level and headquarters' staff, commanders delegate ordinary leave approval to no lower than the first-line supervisor.
- Convalescent Leave:
  - Unit commanders normally approve convalescent leave based on the written recommendation of the military physician most familiar with the member's condition.
- Terminal Leave. The Chief of Staff (ARNG) and the Wing Commander (ANG) is the approval authority for combination of terminal leave and PTDY of 91 to 120 days for exceptional circumstances. He or she may delegate approval authority to group commanders or equivalents in grade of colonel only.

### **Leave Disapproval Authority**

The entitlement to leave is a right; however, unit commanders can disapprove leave requests due to military necessity or in the best interests of the ARNG or ANG. Unit commanders may delegate disapproval authority to a level no lower than squadron section commander, deputies, or equivalent (for headquarters staff, no lower than assistant functional deputy directors or equivalents).

### **Leave Accrual**

Title 10, U.S.C., section 701, governs leave accrual and accumulation. Members accrue 2.5 days leave for each month of active duty. Members who are unable to use leave due to military necessity may accumulate a maximum of 60 days by the end of an FISCAL YEAR unless Special Leave Accrual authority is granted.

### **Payment for Accrued Leave**

Title 37, U.S.C., Section 501, is the authority for payment of accrued leave upon reenlistment, retirement, separation under honorable conditions, or death. It limits payment of accrued leave to 60 days in a military career effective 10 Feb 76. A military career includes former service in enlisted or officer status. Cumulative payment for accrued leave as an enlisted member, officer, or both cannot exceed 60 days.

### **Leave Holidays**

Public holidays established by Federal statute are non-working days, military operations permitting. When a holiday falls on a Saturday, the non-working day is the preceding Friday. When a holiday falls on a Sunday, the non-working day is the following Monday. Holidays are chargeable leave days if they occur during an authorized period of leave. If departure on a period of leave is on a holiday, the holiday is not a day of leave. If return from an authorized period of leave is on a holiday, the holiday is a day of leave.



Commanders may be as liberal as training, mission, and local conditions permit in authorizing leave during the Christmas and New Year's Day period.

- New Year's Day, 1 January.
- Martin Luther King's Birthday, the third Monday in January.
- Washington's Birthday, the third Monday in February.
- Memorial Day, the last Monday in May.
- Independence Day, 4 July.
- Labor Day, the first Monday in September.
- Columbus Day, the second Monday in October.
- Veterans Day, 11 November.
- Thanksgiving Day, the fourth Thursday in November.
- Christmas Day, 25 December.
- Other holidays as directed by proper authority under the law.

#### **Miscellaneous Leave Situational Information**

- **TDY From Leave Status.** A member ordered TDY while on leave reverts to duty status as of the TDY effective date. Annotate the TDY orders to show whether the member is reverting to leave status originally authorized or will be returning to his or her duty station upon completing the TDY.
- **Recall From Leave.** Unit commanders may recall members from leave for military necessity or in the best interest of the ARNG or ANG. When recalling a member, do not charge the period of absence as leave when the period between departure on leave and the member's receipt of recall is 3 days or less. Consider the remaining time of absence as travel time, unless the unit commander determines it is clearly excessive to the circumstances. If determined excessive, charge the entire period of absence as leave.
- **Absence Over Leave:** See DoD 7000.14-R, volume 7A, to determine whether an absence was unavoidable. Charge leave for an absence in excess of authorized leave or pass if the unit commander later determines to be unavoidable; otherwise, consider it absence without leave. Do not charge leave for an absence in excess of authorized leave caused by mental incapacity, detention by civil authorities, and early departure of a mobile unit due to operational commitments. This applies whether the absence is avoidable or excused as unavoidable, regardless of duration. Charge leave for other unauthorized absences that the unit commander determines to have been avoidable.
- **Unable To Return From Leave Because of Illness or Injury.** When a member is unable to return to duty from leave because of illness or injury:
  - The member must advise the leave approving authority by the quickest means.
  - The next of kin, attending physician, nearest military medical treatment facility
  - MTF may act on the member's behalf when incapacitated to such a degree that notification by the member is not possible.

- Upon return from leave, the member presents a statement from their MTF or the attending physician regarding the individual's medical condition. The unit commander evaluates the statement before authenticating the leave document.
- The unit commander may consult with the local medical treatment facility for clarification or recommendation.
- Unit commander issues amended leave authorization, if required.
- Medical, Dental, Hospitalized or Placed on Quarters. When a member on leave requires medical or dental care, he or she reports to the nearest military medical treatment facility. If treated at civilian facilities, governing directives authorize medical or dental treatment from civilian sources at government expense only for emergency and immediate non-emergency care.
- Hospitalized or Placed on Quarters. If a member on leave requires hospitalization or quarters status, do not charge leave while hospitalized or on quarters.
  - Chargeable leave ends the day before and starts again the day following hospitalization or quarter's status, regardless of the hour of admission or discharge or release from quarters.
  - If a military health care provider places the member on quarters, the member's status changes from leave to quarters, and the medical authority directing such status notifies the individual's commander. The nearest military health care provider approves civilian health care provider's placement of members on quarters. If the member desires to revert to leave status after release from quarters:
    - On return to duty, the member provides the leave approving authority with a statement from the attending physician or military treatment facility that certifies the period of confinement and date of release. This statement is usually the admission and disposition list of the medical treatment facility.
- Medical Care at Personal Expense. When a member elects civilian medical care at personal expense:
  - The member takes ordinary leave to cover any period of time lost from duty. This includes the period of convalescence, as well as time actually spent as an inpatient in a civilian hospital. This applies when an ARNG or ANG physician determines the medical procedure is elective on the part of the member. **EXAMPLE:** Leave for cosmetic surgery that the MTF declined to perform or when the member did not receive MTF consultation.
  - Do not charge the period of time lost to duty due to inpatient status as leave when a military physician determines a medical procedure is necessary. Following the medical procedure, unit commander may grant convalescent leave based upon the recommendation of an ARNG or ANG physician.

### **Convalescent Leave Requests**

The Commander will not approve more than 30 days initial convalescent leave. Extending convalescent leave beyond 30 days requires additional medical review and consent as depicted in the table below.

**EXCEPTION:** Convalescent leave due to pregnancy or childbirth.

R U L E	A	B	C
	If member	and	then the unit commander unless otherwise specified
1	is discharged from inpatient status	medical condition is not pregnancy related	normally approves the number of days that the attending physician deems necessary, not to exceed 30 days.
2		medical condition is childbirth	normally approves 42 days.
3	is treated on an outpatient status	medical condition is pregnancy related	normally approves the number of days that the attending physician deems necessary for the member's or fetus' health and safety.
4		medical condition is not pregnancy related	normally approves the number of days that the attending physician deems necessary, not to exceed 30 days.
5	is on inpatient status at Air Force MTF	will be returning to the MTF as an inpatient	MTF service chief or department chairman normally approves up to 30 days that the attending physician deems necessary. MTF commander may approve more than 30 but less than 90 days. More than 90 days requires MAJCOM/SGP approval.
6	is a patient at an Army or Navy MTF, or at a Veterans' Administration (VA) hospital	medical condition is not pregnancy related	Army or Navy MTF commander or VA Director normally approves up to 30 days that the attending physician deems necessary. Continued convalescent requires additional medical review.
7	elected medical procedure at own expense	Air Force physician previously determined member requires the medical procedure	normally approves the number of days that the attending physician deems necessary, not to exceed 30 days.
8	elected medical procedure at own expense	Air Force physician previously determined member did not require the medical procedure	cannot approve.  <b>COMMENT:</b> Members take ordinary leave to cover the period of absence. The period of absence includes the time actually spent as an inpatient in a civilian hospital and any convalescent period deemed necessary by the attending physician.

R U L E	A	B	C
	If member	and	then the unit commander unless otherwise specified
9	paid for medical procedure which Air Force MTF medical authority determined member did not require	Is subsequently treated at an Air Force MTF after experiencing complications	normally approves the number of days that the attending physician deems necessary, not to exceed 30 days.

- Medical Authority. The medical authority or attending physician determines:
  - When a medical condition warrants continuance of convalescent leave.
  - Whether the member can depart the local area while on convalescent leave.
- Convalescent Begins. Convalescent leave begins the day of release from the medical treatment facility and continues through the day before the member's return to duty, if applicable, or return to in-hospital status.
- Voluntary Termination. A member may voluntarily terminate convalescent leave earlier with the attending physician approval.
- Requesting Ordinary Leave. A member may request ordinary leave after completing convalescent leave.
- Terminating Convalescent Leave. The unit commander may terminate convalescent leave status if the member's continued absence from duty would clearly have an adverse impact on the readiness or operational mission of the unit. The unit commander consults the military health authority to determine whether such action is medically advisable.

### Emergency Leave

Emergency leave is chargeable leave granted for personal or family emergencies involving the immediate family.

- Immediate Family. Immediate family consists of the member's spouse and member's or spouse's:
  - Parents (including stepparents).
  - Children (including illegitimate children and stepchildren).
  - Brothers and sisters.
  - Sole surviving blood relative.
- Emergency Leave Approval.
  - Unit commanders approve initial emergency leave periods up to 30 days and extensions up to 30 days. If a member has, or will have, a negative leave balance, unit commander considers only that leave which is absolutely necessary to take care of the emergency situation.
- Unit Commander's Responsibilities.
  - Approve or deny emergency leave on a case-by-case basis based on their knowledge of the circumstances.
  - Approve initial periods of emergency leave for no more than 30 days and extensions for no more than 30 days. Advise members to apply for

- humanitarian or exceptional family member reassignment, or separation for hardship reasons if the leave period is more than 60 days.
- Give members the opportunity to apply for ordinary leave, reassignment, or separation for hardship reasons if they do not qualify for emergency leave.
- Advance Leave. When members do not have sufficient accrued leave to take care of urgent personal or emergency situations:
  - Unit commander approves the lesser of 30 days or the amount of leave they will earn during the remaining period of active military service. First sergeants can approve advance leave when delegated authority to approve emergency leave for enlisted members.